

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

AURORA LOAN SERVICES, LLC,)	
As Master Servicer and on behalf of)	
LaSalle SAIL 2004-3,)	
)	Case No. 08-cv-1328
Plaintiff,)	
)	Judge Kennelly
v.)	
)	Magistrate Judge Nolan
ANTHONY L. MITCHELL,)	
)	
Defendant.)	

PLAINTIFF'S MEMORANDUM IN RESPONSE TO THE
COURT'S MAY 6, 2008 ORDER

This Court inquires whether plaintiff Aurora Loan Services LLC ("Aurora") is the real party in interest in this case—as opposed to that certain New York common law trust identified as Structured Asset Investment Loan Trust Mortgage Pass-Through Certificates Series 2004-3 ("Trust"), which is the owner of the subject mortgage loan ("Loan"). Additionally, the Court inquires whether, in any either event, diversity of citizenship exists in this case.

Aurora asserts it is the real party in interest herein because: (1) Aurora is Master Servicer of the Loan, and is therefore authorized and directed to recover all losses or relating to the Loan; and (2) Aurora is a party to the Trust Agreement and has the sole and exclusive authority to pursue the claims herein, both by virtue of the Trust Agreement itself, as well as the specific written authorization given to Aurora by the trustee of the Trust, namely LaSalle Bank National Association ("Trustee") (a copy of which was previously provided to the Court).

Attached hereto for the Court's review as Exhibit A (pending the Court's issuance of a protective order) is the subject Trust Agreement. As stated in Aurora's previous memorandum to the Court, the Trust is a New York common law trust, with citizenship in the State of New

York. The Trust Agreement expressly appoints Aurora as Master Servicer. See Section 9.01 of Trust (page 123).

In furtherance of Aurora's assertion that it is the real party in interest in this case, Aurora refers the Court to Section 9.04 of the Trust, setting forth, *inter alia*, the powers of Aurora in connection with its duties as Master Servicer:

[Aurora] shall master service the Mortgage Loans and shall have full power and authority . . . to do any and all things that it may deem necessary or desirable in connection with the servicing and administration of the Mortgage Loans, including but not limited to the power and authority (i) to execute and deliver, on behalf of the Certificateholders and the Trustee, customary consents or waivers and other instruments and documents, (ii) to consent to transfers of any Mortgaged Property and assumptions of the Mortgage Notes and related Mortgages, (iii) to collect any Insurance Proceeds and Liquidation Proceeds, and to effectuate foreclosure or other conversion of the ownership of the Mortgaged Property securing any Mortgage Loan . . . in accordance with the provisions of this Agreement and the applicable Servicing Agreement . . . [.]

Even if this Court were to find that the Trust is a proper party, or is the real party in interest herein, diversity would still exist because the Trust is a citizen of the State of New York and, upon information and belief, the Trustee is a citizen of the State of Delaware. To the extent necessary, Aurora remains ready and willing to provide any additional documents or information the Court believes is necessary to demonstrate that Aurora is the real party in interest herein, and that diversity of citizenship exists in this case.

Dated this 22nd day of May, 2008.

Respectfully submitted,
AURORA LOAN SERVICES, LLC,

By: /s/ Susan J. Miller
One of its attorneys

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